

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION**

**HOSHIZAKI AMERICA, INC. and
HOSHIZAKI NORTHEASTERN
DISTRIBUTION CENTER, INC.,**

Plaintiffs,

v.

CASE NO.: 3:21-cv-00022-TCB

**AUTOMATIC ICE MAKER
COMPANY,**

Defendant.

**DEFENDANT’S MOTION
TO DISMISS, OR ALTERNATIVELY, TO STAY
PROCEEDINGS AND TO COMPEL ARBITRATION**

Pursuant to Fed. R. Civ. P. 12(b)(3) and 9 U.S.C. §§ 3 and 4, Defendant Automatic Ice Maker (AIM) hereby respectfully moves this Court to enter an Order compelling arbitration and either: (1) dismissing Plaintiffs Hoshizaki America, Inc. and Hoshizaki Northeastern Distribution Center, Inc.’s Complaint or, alternatively, (2) staying the litigation against AIM in this matter until arbitration is complete. As argued in AIM’s accompanying memorandum of law, AIM’s Motion to Dismiss or Stay should be granted because Plaintiffs are

contractually required to arbitrate, rather than litigate in court, their claims against AIM.

WHEREFORE, AIM respectfully requests that its Motion to Dismiss, or Alternatively to Stay Proceedings and Compel Arbitration, be granted, and that the Court enter an Order compelling Plaintiffs to participate in a pending arbitration initiated by AIM and:

1. Dismissing Plaintiffs' Complaint under Fed. R. 12(b)(3); or
2. Staying this action under 9 U.S.C. § 3 until the pending arbitration is resolved.¹

Respectfully submitted this 13th day of April, 2021.

/s/ Lindsey E. Hughes

Andrew B. Flake

Georgia Bar No. 262425

Lindsey E. Hughes

Georgia Bar No. 371291

ARNALL GOLDEN GREGORY, LLP

171 17th Street NW

Suite 2100

Atlanta, GA 30363

Telephone: 404-873-8500

Facsimile: 404-873-8501

Lindsey.hughes@agg.com

¹ To the extent this Motion is contested, AIM would also respectfully request that the matter be set down, in accordance with Paragraph 19 of the Court's Instructions to Parties and Counsel, for oral argument to be conducted by AIM counsel Lindsey E. Hughes.

Andrew.Flake@agg.com

*Attorneys for Defendant Automatic Ice
Maker Company*

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the foregoing has been filed using the Court's CM/ECF system, which will send a service copy to all counsel of record.

This 13th day of April, 2021.

/s/ Lindsey E. Hughes

Lindsey E. Hughes

*Attorney for Defendant Automatic Ice
Maker Company*